



PTO/SB/26 (08-04)

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TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING  
REJECTION OVER A "PRIOR" PATENTDocket Number (Optional)  
V-015-C1

In re Application of: David H. COLE

Application No.: 10/090,199

Filed: March 4, 2002

For: METHODS AND DEVICES USING MAGNETIC FORCE TO FORM AN ANASTOMOSIS BETWEEN HOLLOW BODIES

MEDTRONIC AVECOR CARDIOVASCULAR, INC.

The owner\*, \_\_\_\_\_, of \_\_\_\_\_ 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. 6,352,543 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

expires for failure to pay a maintenance fee;

is held unenforceable;

is found invalid by a court of competent jurisdiction;

is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;

has all claims canceled by a reexamination certificate;

is reissued; or

is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1.  For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2.  The undersigned is an attorney or agent of record. Reg. No. \_\_\_\_\_

Signature

December 13, 2004

Date

---

Jeff Hohenshell  
Typed or printed name

---

703-391-9861  
Telephone Number

- Terminal disclaimer fee under 37 CFR 1.20(d) included.

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\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to be (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PTO/SB/26 (08-04)

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PATENT & TRADEMARK DISCLAIMER TO OBLIGATE A DOUBLE PATENTING  
REJECTION OVER A "PRIOR" PATENTDocket Number (Optional)  
V-015-C1

In re Application of: David H. COLE

Application No.: 10/090,189

Filed: March 4, 2002

For: METHODS AND DEVICES USING MAGNETIC FORCE TO FORM AN ANASTOMOSIS BETWEEN HOLLOW BODIES

## MEDTRONIC AVECOR CARDIOVASCULAR, INC.

The owner, \_\_\_\_\_, of \_\_\_\_\_ percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. 6,052,543 \_\_\_\_\_ as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, his successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

expires for failure to pay a maintenance fee;

is held unenforceable;

is found invalid by a court of competent jurisdiction;

is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;

has all claims canceled by a reexamination certificate;

is reissued; or

is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1.  For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2.  The undersigned is an attorney or agent of record. Reg. No. \_\_\_\_\_

Signature

December 13, 2004

Date

Jeff Hohenhell  
Typed or printed name703-391-9861  
Telephone Number

- Terminal disclaimer fee under 37 CFR 1.20(d) included.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

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This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PTO/SB/81 (02-01)

Approved for use through 10/31/2002. GMB 0851-0035  
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## POWER OF ATTORNEY OR AUTHORIZATION OF AGENT

Application Number	10/090,199
Filing Date	March 4, 2002
First Named Inventor	DAVID H. COLE
Group Art Unit	3731
Examiner Name	Julian W. Woo
Attorney Docket Number	V-015-C1

I hereby appoint:

Practitioners at Customer Number

32746

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OR

Practitioner(s) named below:

Name	Registration Number

as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the Patent and Trademark Office connected therewith.

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I am the:

Applicant/Inventor.

Assignee of record of the entire interest. See 37 CFR 3.71.

Certificate under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).

### SIGNATURE of Applicant or Assignee of Record

Name	Jeff Hohenshell
Signature	
Date	December 13, 2004

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.  
Submit multiple forms if more than one signature is required. see below.

\*Total of \_\_\_\_\_ forms are submitted.

Burden Hour Statement: This form is estimated to take 3 minutes to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

**STATEMENT UNDER 37 CFR 3.73(b)**Applicant/Patent Owner: David H. COLEApplication No./Patent No.: 10/080,199Filed/Issue Date: March 4, 2002Entitled: **METHODS AND DEVICES USING MAGNETIC FORCE TO FORM AN ANASTOMOSIS BETWEEN HOLLOW BODIES**

MEDTRONIC AVECOR CARDIOVASCULAR, INC., a corporation  
 (Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

- the assignee of the entire right, title, and interest; or
- an assignee of less than the entire right, title and interest.  
The extent (by percentage) of its ownership interest is \_\_\_\_\_ %

in the patent application/patent identified above by virtue of either:

A.  An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

OR

B.  A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: David H. Cole To: Ventrica, Inc.  
The document was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.
2. From: Ventrica, Inc. To: Medtronic Avecor Cardiovascular, Inc.  
The document was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.
3. From: \_\_\_\_\_ To: \_\_\_\_\_  
The document was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

Additional documents in the chain of title are listed on a supplemental sheet.

Copies of assignments or other documents in the chain of title are attached.

(NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3. If the assignment is to be recorded in the records of the USPTO. See MPEP 302.08)

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Signature

December 13, 2004

Date

Jeff Hohenshain703-391-9661

Telephone Number

Printed or Typed Name

Senior Patent Counsel

Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Washington, D.C. 20231

JM Heslin



\*101484514A\*

NOVEMBER 2000

PTAS  
TOWNSEND AND TOWNSEND AND CREW LLP  
JAMES M. HESLIN  
TWO EMEBARCADERO CENTER, 8TH FLOOR  
SAN FRANCISCO, CA 94111-3834

UNITED STATES PATENT AND TRADEMARK OFFICE  
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PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 08/14/2000

REEL/FRAME: 011135/0864  
NUMBER OF PAGES: 2

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

COLE, DAVID H.

DOC DATE: 08/04/2000

ASSIGNEE:

VENTRICA, INC.  
976 HAMILTON AVENUE  
MENLO PARK, CALIFORNIA 94025

SERIAL NUMBER: 09562599

FILING DATE: 04/29/2000  
ISSUE DATE:

PATENT NUMBER:

JEEVON JONES, EXAMINER  
ASSIGNMENT DIVISION  
OFFICE OF PUBLIC RECORDS

TOWNSEND & TOWNSEND  
BY CREW  
00 DEC 11 AM 11:13

Attorney Docket No.: 015  
TTC Reference: 19432-001100

**ASSIGNMENT OF PATENT APPLICATION**

SOLE

WHEREAS, DAVID H. COLE, of 1550 Lago Street, San Mateo, CA 94403, hereinafter referred to as "Assignor," is the inventor of the invention described and set forth in the below-identified application for United States Letters Patent:

Title of Invention: METHODS AND DEVICES USING MAGNETIC FORCE  
TO FORM AN ANASTOMOSIS BETWEEN HOLLOW  
BODIES

Date(s) of execution of Declaration: AUGUST 4, 2000

Filing Date: April 29, 2000

Application No.: 09/562,599; and

WHEREAS, VENTRICA, INC., a corporation of the state of DE, located at 976 Hamilton Avenue, Menlo Park, CA, 94025, hereinafter referred to as "ASSIGNEE," is desirous of acquiring an interest in the invention and application and in any U.S. Letters Patent and Registrations which may be granted on the same;

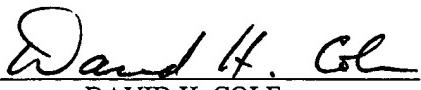
For good and valuable consideration, receipt of which is hereby acknowledged by Assignor, Assignor has assigned, and by these presents does assign to Assignee all right, title and interest in and to the invention and application and to all foreign counterparts (including patent, utility model and industrial designs), and in and to any Letters Patent and Registrations which may hereafter be granted on any patent application claiming priority from the same in the United States and all countries throughout the world, and to claim the priority from the application as provided by the Paris Convention. The right, title and interest is to be held and enjoyed by Assignee and Assignee's successors and assigns as fully and exclusively as it would have been held and enjoyed by Assignor had this Assignment not been made, for the full term of any Letters Patent and Registrations which may be granted thereon, or of any division, renewal, continuation in whole or in part, substitution, conversion, reissue, prolongation or extension thereof.

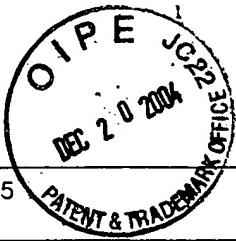
Assignor further agrees that Assignor will, without charge to Assignee, but at Assignee's expense, (a) cooperate with Assignee in the prosecution of U.S. Patent applications and foreign counterparts on the invention and any improvements, (b) execute, verify, acknowledge and deliver all such further papers, including applications and instruments of transfer, and (c) perform such other acts as Assignee lawfully may request to obtain or maintain Letters Patent and Registrations for the invention and improvements in any and all countries, and to vest title thereto in Assignee, or Assignee's successors and assigns.

Assignor hereby authorizes and requests Townsend and Townsend and Crew LLP, Two Embarcadero Center, 8<sup>th</sup> Floor, San Francisco, CA 94111-3834, to insert herein above the application number and filing date of said application when known.

IN TESTIMONY WHEREOF, Assignor has signed his/her name on the date indicated.

Dated: 8/4/00

  
DAVID H. COLE



10-11-2000

Attorney Docket No. 015  
TTC Reference: 19432-001100FORM RTO-1595  
(Rev. 6-93)

101484514

U.S. Department of Commerce  
Patent and Trademark Office

To the Honorable Asst. Commissioner for Patents. Please record the attached original documents or copy thereof

## 1. Name of conveying party(ies):

DAVID H. COLE

Additional name(s) of conveying parties attached?

 Yes  No

## 3. Nature of conveyance:

 Assignment  
 Security Agreement  
 Other: Merger  
 Change of Name

Execution Date: AUGUST 4, 2000

## 2. Name and address of receiving party(ies):

Name: VENTRICA, INC.

Street Address: 976 HAMILTON AVENUE

City: MENLO PARK State: CA ZIP: 94025

Additional names and addresses attached?

 Yes  No

AUG MRD 8.14.00

## 4. Application Number(s) or Patent Numbers.

If this document is being filed together with a new application, the execution date of the application is:

A. Patent Application No(s): 09/562,599

B. Patent No(s):

Additional numbers attached?

 Yes No

## 5. Name and address of party to whom correspondence concerning document should be mailed:

Name: JAMES M. HESLIN  
TOWNSEND AND TOWNSEND AND CREW LLP  
Two Embarcadero Center, 8<sup>th</sup> Floor  
San Francisco, California 94111-3834  
(415) 576-0200

## 6. Total number of applications and patents involved 01

## 7. Total fee (37 CFR 3.41): \$40.00

 Enclosed  Charge Fees to Deposit Account Charge any additional fees associated with this paper or during the pendency of this application, or credit any overpayment, to deposit account.

## 8. Deposit account number: 20-1430

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## 9. Statement and signature.

To the best of my knowledge and belief, the foregoing is true and correct and any attached copy is a true of copy of the original document.

JAMES M. HESLIN  
Name of Person Signing

Signature

AUGUST 11, 2000  
Date

Atty. Reg. No. 29,541

Total number of pages including cover sheet, attachments and document 02

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NOVEMBER 17, 2004

PTAS

\*7001302134\*

FREDRIKSON & BYRON, P.A.  
JOHN S. PARZYCH  
200 SOUTH SIXTH STREET, SUITE 4000  
MINNEAPOLIS, MN 55402

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RECORDATION DATE: 11/10/2004

REEL/FRAME: 015366/0710  
NUMBER OF PAGES: 23

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:  
VENTRICA, INC.

DOC DATE: 10/29/2004

ASSIGNEE:  
MEDTRONIC, INC.  
710 MEDTRONIC PARKWAY, NE  
MINNEAPOLIS, MINNESOTA 55432-5604

SHARON LATIMER, EXAMINER  
ASSIGNMENT DIVISION  
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 <b>REC'D 20-2-2004</b> <b>700430213</b> <small>DOCUMENT REC'D. 16212004</small>		<b>U.S. DEPARTMENT OF COMMERCE</b> <small>Patent and Trademark Office</small>
<b>FORM PTO-1303</b> <small>1-31-92</small>		<b>RECORDATION FORM COVER SHEET</b> <small>PATENTS ONLY</small>
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<p>1. Name of conveying party(s):  Varian, Inc.  Additional name(s) of conveying party(ies) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>		<p>2. Name and address of receiving party(ies):  Name: <b>Medtronic, Inc.</b> Street Address: <b>710 Medtronic Parkway, NE</b> City: <b>Minneapolis</b> State: <b>MN</b> ZIP: <b>55430-5604</b></p>
<p>3. Nature of Conveyance:  <input checked="" type="checkbox"/> Assignment      <input type="checkbox"/> Merger  <input type="checkbox"/> Security Agreement      <input type="checkbox"/> Change of Name  <input type="checkbox"/> Other          Execution Date: <b>October 29, 2004</b> </p>		
<p>4. Application number(s) or patent number(s):  <small>If this document is being filed together with a new Specification, the execution date of the application is:</small>          A. Patent Application No.(s)          89023,452; 09/123,921; 09/170,793; 10/784,361; 09/170,924; 10/441,257;          08/172,458; 10/011,630; 09/232,103; 09/776,250; 10/721,793; 09/232,862;          02/793,871; 09/16,607; 09/304,141; 09/304,140; 09/820,883; 10/441,266;          09/370,131; 10/778,723; 09/304,119; 10/674,006; 09/303,130; 08/479,344; 09/541,372;          08/360,383; 10/000,189; 60/206,429; 09/637,137; 09/638,605; 10/441,269; 10/771,345;          60/255,656; 10/622,187; 09/931,400; 09/931,238; 10/924,056; 60/223,222; 10/659,936;          10/388,374; 10/299,382; 60/465,645; 60/473,359; 10/444,301; 60/508,416; 10/541,619       </p>		<p>B. Patent No(s)</p>
		<p>Additional number(s) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>5. Name and address of party to whom correspondence concerning document should be mailed:  John S. Parzych Friedman &amp; Byron, P.A. 200 South Sixth Street, Suite 4000 Minneapolis, Minnesota 55401 Character No. 922839</p>		<p>C. Total number of applications and patents involved: <b>[ 46 ]</b></p>
		<p>D. Total fees (<sup>if</sup> CFR 3.41): <b>\$1,840.00</b></p>
		<p><input type="checkbox"/> Enclosed  <input checked="" type="checkbox"/> Authorized to be charged to deposit account</p>
		<p>E. Deposit account number:  <b>06-1910</b>  <small>Check applicable copy or this page if paying by deposit account</small> </p>
<b>DO NOT FOLD THIS SPACE</b>		
<p>6. Statement and signature:  <small>To the best of my knowledge and belief, the foregoing information is true and correct and any enclosed copy is a true copy of the original documents.</small>          John S. Parzych  <u>John S. Parzych</u>  <small>Name of Person Signing</small> </p>		<p><b>11/10/04</b>  <small>Date</small>  <small>Total number of pages including cover sheet, attachments and documents: <b>23</b></small> </p>
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